Supreme Court, U.S.
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No.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term 1998

LLOYD G. PERRY

Petitioner

V.

UNITED STATES OF AMERICA, et al.

On Petition For Writ Of Certiorari
To The Seventh Circuit Court Of Appeals

PETITION FOR WRIT OF CERTIORARI

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Pro se on record
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58 P

1. Are all Judges of the Courts of Appeals and all Justices of the U.S. Supreme Court and Supreme Court Of Indiana obligated to correct their errors; and order the lower courts to correct their errors; and accurately state the merits of the case and the germane laws,in their opinions, orders, entry or appeals?

2. In Civil Rights Law (42 USCS § 1983 and § 1985 with 28 USCS § 1343) whereby the deprivation of rights is directed at property losses and deprived recovery by deprived use of the judicial systems which intwine both federal and state courts; can the district court review both state and federal suits, under these statutes, for violations; contrary to Rooker-Feldman Doctrine?

3. Disqualification of judges requires the filing of an affidavit before recusal; therefore is Title 28 USC § 144, an Act Of Congress, March 3, 1911,ch. 291 § 21, 36 STAT 1090, updated to Act of 1949 and an Act of Congress November 6, 1978 as Public Law 95-598, Title II, § 214(a),(b), 92 STAT 2661 known as Title 28 USC § 455; are they Constitutional when allowing only one disqualification per case?

4. Jurisdiction--Exclusive Jurisdiction; encroachment of that exclusive jurisdiction by a federal district court on the State's rights to the exclusive jurisdiction; are these Acts and the encroachment Constitutional when by an Act of Congress titled Judicial Improvment and Access to Justice Act, P.L. 100-702 [H.R.4807] Nov. 19, 1988, 102 STAT 4642 when the U.S. Congress passed this bill allowing all Courts to make their own rules as they go along and they can interpret by selecting select words from the instrument(s) they are viewing to form an all new meaning, then make their rulings on those newly found grounds? Is this Constitutional, when the act of such interpretation amounts to legislation from the bench and violates the separation of powers doctrine? How is one to know what the law and liabilities are under these conditions of shifting sands of arbitrary and capricious actions of a judge, causing conflicts in the laws?

5. Does any politician have a right to use their political powers to obstruct justice for their personal interests then collect political campaign contributions for the protection the obstructions provided to persons otherwise subject to criminal prosecution and civil liabilities; gained by political to judicial association for an illegal purpose?

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AUTHORITY:		PAGE:
1.	United States Constitution:	
A.	Article I., Section 6. clause 1. West Black's Law Dictionary 6th Ed. p. 1640, Writ apdx. pp. 27,28	3,11.
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2.	Constitution of Indiana:	
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B.	Article III., § 1. Burns Ind. Statutes, Const. 1997 Replmnt. p. 204, Writ apdx. 28.	4.
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3.	Federal Statutes Involved:	
A.	28 USCS § 144, Federal Rules Of Civil Procedure by Foundation Press, 1988 p. 566. Writ apdx. p. 29.	1.
B.	28 USCS § 455, Federal Rules Of Civil Procedure by Foundation Press, p. 569-571. Writ apdx. p. 29.	1.
C.	Public Law 100-702 [H.R. 4807] (JudicialImprovment and Access To Justice Act) [H.R. 4807] Nov. 19, 1988, 102 STAT. 4642 at STAT. 4650-4651	i.
D.	28 USCS § 1254(1), Federal Rules Of Civil Procedure by Foundation Press, 1998 p. 574 Writ apdx. p.32.	3.
E.	28 USCS § 1257, Federal Rules Of Civil	3.

Procedure by Foundation Press, 1998, p. 575; Writ apdx. p. 32.

F. 28 USCS § 1331, Federal Rules Of Civil Procedure by Foundation Press, 1998 p. 580; Writ apdx. p. 32. 3.

G. 28 USCS § 1343(a) & (b), Federal Rules Of Civil Procedure by Foundation Press 1998 p. 584; Writ apdx. p. 33. i,3. 4,7,10.

H. 28 USCS § 1651(a) & (b), Federal Rules Of Civil Procedure by Foundation Press 1998, p. 610. Writ apdx. p. 33. 4.

I. 28 USCS § 2201(a), Federal Rules Of Civil Procedure by Foundation Press 1998, p. 630. Writ apdx. p. 34 3.

J. 28 USCS § 2202, Federal Rules Of Civil Procedure by Foundation Press, p. 631. Writ apdx. p. 34. 3.

K. 42 USCS § 1983, 1994 Replacement p. 1 i,3,4 7,10,11.

L. 42 USCS § 1985, 1994 Replacement p. 8,9. Writ apdx. pp. 35,36. i,3,4, 7,10,11.

M. Indiana Code, 33-2-3-1, 1997 Replacement, pp. 113,114. Writ apdx. 36,37. 3,4.

N. Rooker Feldman Doctrine , Rutgers Law Review Vo. 42:859 at 860-861. Writ apdx. 37-38. 1,4. 10,11.

4. Case Law;

Healy v. James 33L Ed 2d 865 @ 896 Writ apdx. p. 26. 9,11.

Hanna v. Plumer, 380 U.S. 460,471 11,12.

Erie R. Co. v. Tompkins, 304 U.S. 64 11,12.

5. Rules of the Supreme Court of the United States Rule 10(a) and (c), pp. 5,6 Rule Book 10.

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2007 S. Phillip Drive
Muncie, Indiana 47302
Phone (765)282-7924
vs.

United States Of America,
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Ex-Senator Dan Quayle,
John Daniel Tinder, District Judge, Indy., Ind.
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Pursuant to Rules of the Supreme Court of the United States, Rule 29.6; their are no public owned corporations involved in this case.

REPORTS:

1. Lloyd G. Perry v. United States Of America et. al., No. 98-4128 (7th Cir. April 30,1999) Order Judgment. (unpublished) (See Writ apdx. pp.2-5)

2. Lloyd G. Perry v. United States Of America et al., No. 98-4128 (7th Cir. May 26, 1999) Rehearing denied. (unpublished) (see Writ apdx. p. 1)

3. Lloyd G. Perry v. United States of America changed to; Lloyd G. Perry v. Senator Richard Lugar et. al., No. IP 98-677-C-H/G (S.D. Ind. Oct. 23, 1998) Order Entry dismissing the action (unpublished) (see Writ apdx. pp.7-15)

4. Lloyd G. Perry v. Senator Richard Lugar, et al., No. IP 98-677-C-H/G Rehearing denied. (unpublished) (S.D. Ind. Nov. 12, 1998) (unpublished) (see Writ apdx. p. 6)

EARLY RELATED CASES:

1. Lloyd G. Perry v. Paul D. Gresk, et al., No. 84-174-C (S.D. February 21, 1986) (unpublished order) (See Barnard)

2. Lloyd G. Perry v. Linda K. Barnard, et al., No. EV 88-24-C (S.D. Ind. September 26, 1989) (unpublished) (see Writ apdx. injun. pp. 16-19 covering both Gresk and Barnard)

3. Perry v. Barnard et. al., No. 89-3575, 1990 WL 121481 (7th Cir. Aug. 17. 1990) (unpublished order) (omitted)

CASES EFFECTED BY DEPRIVED COURT ACCESS:

1. Curtis vs. Perry/ Perry vs. Curtis, 57D01-9006-CT-018 Noble Superior Court Ind. (see Writ apdx. injun. pp.20-25)

2. Perry vs. Fox Contractors Inc., et al., No. 02C01-8908-CT-93. (see injunction (Id.))

3. American General Finance vs. Perry, No. 02D01-9305-CP-832 Allen Superior Court Ind.

4. M&M Investments vs. Perry/Perry vs. M&M Investments No.02D01-9305-CP-861 Allen Superior Small Claims and Allen Circuit

5. Summit Account and Computer Services/ Fort Wayne National Bank vs. Perry, No._____Allen Superior Small Claims, Ind.

6. Perry vs. Geiger Developing Inc.,No.02C01-9111-CP-996 Allen Superior Court Fort Wayne, Indiana

7. Perry vs. Barry's Inc. No 02D01-9503-CT-0122 Allen Superior Court, Ind.

8. A-1 Freeman Moving and Storage vs. Perry Enterprises Inc. - - Perry Enterprises Inc. vs. Portland Trailer and Equipment No.CIV-95-1829-W U.S. District Court, Western District Of Oklahoma.

9. Star Financial Bank vs. Perry Industries Inc. and Lloyd G. Perry, No. 02D01-9609-SC-17346 Allen Superior Court Small Claims.

10. Perry Enterprises Inc. vs. B.M.I. Transportation Inc., No. 1:96-CV-0547, U.S. District Court Cleveland Ohio Division

11. Trier Ford Lincoln Mercury vs. Perry/ Perry vs. Trier Ford No. 02D01-9702-CP-222 Allen Superior Court Ind.

12. McCarthy Lebit Crystal & Haiman vs. Perry, No. 319861 Court of Common Pleas, Cuyahoga County Ohio, proceeded to collect in Allen Superior Court Small Claims, Ind. No. 02D01-9712-SC-20814

13. Federal Bankruptcy Court, Fort Wayne Ind. Division; Adversary Proceedings; McLane, Trustee vs. Perry, No. 98-1066; in the William Edward Faurote, Jr. and Lois Rose Faurote, bankruptcy, No. 96-10702

14. M.L. or Mary Patterson, vs. Lloyd G. Perry, No. 02d01-9608-SC-15572 Allen Superior Court Small Claims

15 State of Indiana vs. Lloyd G. Perry, No. 98-IF-2238, Allen Superior Traffic and Misdemeanor, Ind.

JURISDICTIONAL STATEMENT

On May 26, 1999 the 7th Circuit Court of Appeals denied appellant's petition for rehearing En Banc. The same 7th Circuit Court of Appeals affirmed the lower district court's judgment, without oral argument and with sanctions for filing the appeal, April 30, 1999.

The issues raised in appellant's petition for rehearing was on the bases of lack of jurisdiction of both the 7th Circuit Court Of Appeals and the U.S. District Court (S.D. Ind., Indy) and the refusal of each to correct their errors and refusal to acknowledge the qualifying exceptions to the law that placed liability on the appellees where otherwise they would be entitled to immunity. It was clear the court had not read the Appellant's brief nor were they going to do so. This fact was made clear by the issue of the affirmed lower court judgment on April 30, 1999, No. 98-4128 (7th Circuit) Order Judgment without oral argument.The lack of subject matter jurisdiction went back to the original case of *Perry*

vs. Barnard et. al., No. EV 88-24-C (S.D. Ind. September 26, 1989; on appeal to the 7th Circuit August 17, 1990, No. 89-3575, 1990 WL 121481)Nothing about these cases are being being done in accordance with the United States Constitution or the Federal and State Laws germane to the issues.

Jurisdiction of this United States Supreme Court is under *28 USCS* § 1254(1); *28 USCS § 1331;*and the *United States Constitution Article III, Section 2, clause 1; Article IV., § 4.*

Jurisdiction of the U.S. District Court Southern District of Indiana Indianapolis Division was on the bases of Federal Question under *28 USCS § 1331; § 1343(a); § 1346(a)(2)(b); § 2201 and § 2202(a)* and the standard of review of "clearly erroneous" under *42 USCS § 1983 and 42 USCS § 1985.*

However jurisdiction of the lower district court and the 7th Circuit Court of Appeals is challenged on the bases of lack of subject matter jurisdiction. Jurisdiction reserved exclusively for the Indiana Supreme Court under *Indiana Code 33-2-3-1* and the *Indiana Constitution Article III., § 1.; and Article VII., § 4.* with this United States Supreme Court as appellate court, *United States Constitution Article III., § 2., clause 2.* (see Writ apdx. pp. 28,32) The 7th Circuit Court of Appeals and the district court refuse to admitt these clear facts which form the bases for this petition for writ of certiorari.

Pursuant to Supreme Court Rule 14(e)(v) notifications pursuant Rule 29.4(b) and (c) have been made.

Constitutional Provisions:

A. United States Constitution, Article III., Section 2. clause 1 and 2. West Black's Law Dictionary Sixth Edition p. 1644, (Wit Apdx. p. 27)

B. United States Constitution, Article IV., Section 4. West Black's Law Dictionary Sixth Edition p. 1645 (Writ Apdx. p.27.)

C. United States Constitution Article I., Section 6 clause 1. West Black's Law Dictionary Sixth Edition p. 1640, (Writ Apdx. p. 27,28)

D. Constitution of Indiana Article VII § 4 Burns Indiana Statutes, Constitutions, 1997 Replacement p. 30 (Writ Apdx. p. 28)

E. Constitution of Indiana Article III § 1. Burns

Indiana Statutes, Constitutions, 1997 Replacement p. 204. (Writ Apdx. p. 28)

F. Constitution of Indiana Article I § 12 Burns Indiana Statutes, Constitutions, 1997 Replacement p. 30. (Writ Apdx. p. 28)

Statutes Involved:

1. 28 USCS § 1651(a) and (b) (see Writ apdx. p. 33
2. 28 USCS § 1343 (see Writ apdx. p. 33)
3. 42 USCS § 1983 (see Writ apdx. p. 34)
4. 42 USCS § 1985 (see Writ apdx. p. 35-36)
5. Indiana Code 33-2-3-1, 1995 Replacement p. 113,114. (Writ Apdx. p. 36)

Rooker - Feldman Doctrine, Rutgers Law Review Vol. 42:859 at 860-861 (see Writ Apdx. pp. 37,38)

STATEMENT OF THE CASE

Senator Richard Lugar (defendant, appellee, respondant herein) went to great lengths to keep his Chief Staff Attorney Paul D. Gresk out of trouble for Gresk's aiding in the cover up of the embezzlement of Perry's $125,000. by bank president George Astrike of Tell City National Bank, while Gresk was retained by Perry to bring suit against the Bank and Astrike.

Perry has filed this action, though he has been afraid for his life and the lives of any friend that would unknowingly become involved as a witness to some act of a furtherance to this conspiracy of trying to get rid of Perry and the evidence of the crimes that has been committed by the herein named respondants and others associated with them. So far two of Perry's co-worker friends have been killed to keep them from testifying in the case of Perry v. Fox and Curtis v. Perry; early on, four attempts were made on Perry's life; one documented attempt by Stephen Spindler, (respondant herein) was an order to the Noble County Sheriff and deputies to push Perry down a long flight of steel stairs, which they almost accomplished. The origin of this order to kill, Perry believes, came from Chief Justice Randal T. Shepard of the Indiana Supreme Court.

These people just simply will not leave Perry alone. They disrupt his employment, his businesses, his bank accounts, his taxes, cause bogus law suits to be filed. Then perjudice Perry by submitting either the Federal or State Injunctions in the cases and from then on no matter which court or State involved the intrinsic

and extrinsic frauds begin, ending with no representation by Perry's hired attorneys and no consideration by the presiding judge of the evidence and circumstances placed before them. Only this Court has jurisdiction to hear intwined federal and state offenses.Perry has tried several times to get these issues into this United States Supreme Court but the District Court would not let it happen; even now with the appeal to the 7th Circuit the record will show that an attempt was made for a direct appeal to the U.S. Supreme Court but it was blocked by the District Court. Perry desperately needs relief fro : this conspiracy to deprive and eleminate and so pleads with this United States Supreme Court to take up this Writ of Certiorari and provide the equal protection of the law so lacking at this point; lacking because of who is involved.

This is how it all came to be:

1. Petitioner, Lloyd G. Perry, (Perry) filed a new and different case, apart from the early cases of *Perry v. Gresk* No. EV 84-174-C (S.D Ind. February 21, 1986) and *Perry v. Barnard* No. EV 88-24-C (S.D. Ind. September 26, 1989) and did so in the United States District Court for the District Of Columbia No. 1:98CV00735. The case could be filed in the D.C. area or in Indianapolis Indiana. The D.C. Court transferred the case to Indianapolis Indiana under No. IP 98-0667-C-H/G. The reasoning was to place emphasis on the absence of jurisdiction of the Indianapolis District Court over the case of Perry v. Barnard and the *injunction* that same court issued against Perry restricting his use of the Federal Courts.

2. This case challenges the Constitutionality and validity of the said *injunctions* (see Writ apdx. injun. pp. 16-25) that sought to protect the defendants of both Perry v. Gresk and Perry v. Barnard; also Congressional Acts *28 USCS § 144; § 455* and Public Law 100-702 [H.R. 4807] (Judicial Improvment and Access To Justice), Act 102 STAT. 4642; raised in the complaint.

3. Defendant Paul D. Gresk, attorney (chief staff attorney for Senator Richard Lugar,(respondant herein) was retained by Perry to bring legal action against Tell City National Bank,Kelco Inc. and Kelco of Indiana Inc. ,Tri-State Reclamation related to Tort Business Interference. After nearly a year of Gresk's excuses for not filing the suit against Tell City National Bank, in disgust Perry filed his own suit against Tell

City National Bank. Discovery revealed that Tell City National Bank president, George Astrike had embezzled $125,000. of Perry's money. That Paul D. Gresk had been to the Bank and drafted documents for the Bank, without Perry's knowledge or consent that was an attempt to cover up the embezzlement by giving assignments of interest of Perry's money. A like condition was found in the German American Bank in Jasper Indiana and in the Jasper State Bank.

4. Perry filed suit against Gresk (Perry v. Gresk) in the U.S. District Court in Evansville Indiana, naming Gresk and several other attorneys and judges that had engaged in criminal activities either during court proceedings or with court records or with evidence tampering or witness tampering so as to prevent Perry from recovery of damages sought in the court processes. On bogus grounds the Court threw out the case and Perry started the appeal process into the 7th Circuit Court Of Appeals; filed a disciplinary action against Gresk with the State Supreme Court.

5. At this same time other things began to happen; Justice Richard Given was forced off the Indiana Supreme Court and replaced by Randal T. Shepard. The news paper said he was placed there because of his controllability by reason of his sexual preferences. The Gresk case was headed for the 7th Circuit and the then Senator Dan Quayle (respondant) got his buddy Dan Manion placed in the 7th Circuit. During this same time Senator Lugar was spending a lot of time in the same areas as the origins of the cases were. Perry's investigation of this condition showed that Lugar (respondant) had received large sums of campaign contributions from the very same people that were involved in the case of Perry v. Gresk. As time passed he would revisit these same areas and same people. (Astrike, Tell City National Bank etc.) and collect even more money as contributions.

6. Perry took the evidence of the embezzlement, the cover-up and the campaign contributions to the U.S. Attorney in Indianapolis, John Daniel Tinder (the same respondant herein) Tinder kept the evidence for a short period of time (about 4 weeks) then sent it back without any letter or anything else. In just a few weeks it was announced that Tinder was appointed Federal Judge of the Southern District Of Indiana and that Indianapolis would now be considered part of that Southern District.

7. Perry had received a decision from the Indiana

Supreme Court Disciplinary Commission that they would not punish Gresk (not even have him make restitution) Perry tried to file an appeal with the U.S. Supreme Court but the law Clerk of that time period would not allow it. Instructions to Perry was to file a new complaint in the District Court of normal Jurisdiction. This Perry knew was wrong because the State Supreme Court could not have it's judgments reviewed by a district court, it had to be reviewed by the U.S. Supreme Court.

8. Perry filed his Title *42 USCS § 1983 and § 1985* suit in the U.S. District Court in Evansville Indiana on the bases of the terms of the (Id.) statutes of power to prevent (§1985) and under *28 USCS § 1343.* Perry caught Judge Gene Brooks and Theadore Lockyear (respondant herein discussing how they would work the dismissel of the case) Perry filed a disqualification affidavit under *28 USCS § 144 and § 455* to disqualify Brooks and Brooks withdrew from the case. In parallel it was this same time in which John Daniel Tinder was appointed Federal Judge. The case was given to Tinder and Tinder did not disqualify himself even though he had outside knowledge of the case from the position of prosecutor and the evidence Perry had submitted to him. Perry could do nothing because of the (Id.) statutes of § 144 limiting one disqualification per case. The statutes forced Perry to go from one corrupt setting into another by reason that it was clear by this time that John Daniel Tinder did not prosecute Lugar and Gresk because Lugar had bribed Tinder with a federal judgship. Tinder in return had to dismiss the Perry v. Barnard case but they went further and placed the injunction on Perry preventing Perry from pursuit of damages brought on by the defendants of both cases of Perry v. Gresk and Perry v. Barnard whereby losses and damages could not be recovered for the criminal activities; now condoned by the Indiana Supreme Court with emphasis on Justice Randal T. Shepard. The bribe is the issue not the failed prosecution.

9. Clearly respondants Lugar and Quayle had set people in positions of power to protect and prevent civil and criminal recourse by Perry. Clearly they had protected them by the placement of the injunction, from which, as time passed, showed that Lugar continued to receive contributions for that protection the injunction provided to the criminal element of the Judicial system.

10. Respondant Theadore Lockyear engineered

trouble and disruptions for Perry and got Perry into the litigation of Perry v. Fox Contractors Inc. and Curtis v. Perry/Perry v. Curtis. Again high levels of criminal activities took place in these cases, including the killing of Perry's co-workers as said above. Again an injunction was placed against Perry to protect the people involved in both cases of Perry v. Fox and Curtis v. Perry and from Perry's long term observations the same collection of contributions is given to Lugar from this group also.

11. Petitioner Perry has listed within this petition for writ of certiorari several cases both State and Federal and within the State of Indiana and also outside the State. From these listed cases,when reviewed, one can see that the judicial system has become a form of racketeering whereby bogus suits are filed and the parties have to pay a large sum of money to an attorney for representation (with emphasis on corporations) the attorneys do little or nothing and if anything is said they take the money and withdraw leaving no representation and the resulting losses.

12. In many of the cases where Perry could represent himself and also where there was retained counsel, (in each case cited in this writ as cases effected by the injunctions) the injunctions would be presented to the presiding judge. No matter how bogus the claim would be; no matter how much evidence Perry would submitt, the court (primarily respondant Mathias in Allen Superior Court) would ignore Perry, his evidence and evidence of altered documents, edited video tapes, tampered witnesses. It just didn't matter and the bogus claims were awarded.

13. This does not even resemble a Court process or due process; it is so far from being the practice of jurisprudence it can only be called racketeering; using bribery and payment of protection money to politicians so that it may continue. It continues only because of the rule making process given in Public Law 100-702 (supra) allows intentional errors unchecked; the Rooker - Feldman Doctrine was challenged on appeal.

14. Petitioner's actual damages (and not all are counted) and losses total $995,670,000.00 and with triple damages equals the sum of $3,089,010,000.00 . The United States Of America has failed to protect Perry from this condition in violation of the *United States Constitution Article IV., § 4.* With this condition there can be no Republican Form Of Government for Perry or anyone else. The judicial systems have

gotten to far away from the due process and required procedures to be called a fair court system anymore. This United States Supreme Court is the "court of last resort" and the only Court with the power and jurisdiction needed to put things back like they should be and get the politicians out of the Courts and jurisprudence back in. (see e.g. *Healy v. James*, 33L Ed 2d 865 @ 896, Writ apdx. p. 26)

Argument Favoring The Writ:

1. To get a better view of the conditions of the Courts, we look briefly at three of the Justices of this United States Supreme Court; Chief Justice William Rehnquist, Justice Sandra Day O'Connor and Justice Clarence Thomas. In July 1999 Justice Rehnquist and Justice O'Connor both spoke to the Judicial Conference in Virginia in relation to building the public trust in the American Courts. This was publicly aired July 12, 1999 in our area.

2. In June 1999, Justice Clarence Thomas and Justice O'Connor addressed the Justices of the several States Supreme Courts. The occasion was a review of a year earlier event but aired on public television the second week of June 1999. In the speech of Justice Thomas was a very disturbing statement. Justice Thomas told this group of justices that "while we all make mistakes, we don't have to correct them". This fits squarely into the conditions this petitioner is writing to this Supreme Court about in the Petition For Writ of Certiorari. The judges in these cases herein mentioned refuse to admit their error or to correct their errors. If this condition is to be allowed to stand, why have a court of appeals or a supreme court, because the purpose of both is for assurance of a fair and equitable process and where errors are made, they are sent back to the lower courts to be corrected. As this statement stands, it takes the United States Supreme Court the individual State Supreme Courts and all State and Federal Courts of Appeals out of the business of appellate review, other than a mock process void of authenticity. (see *United States Constitution Article III., Section 2., clauses 1. and 2.*)(Writ apdx. p. 27). Therefore the evidence is here to show that you know their is a problem with public trust of the American Courts; and you have openly stated the bases of the problem reflected by Justice Thomas's statement, supported by Justice O'Connor's speech that followed Thomas. Talking about a

problem helps but it really doesn't get anything done. You must take control and make an abrupt change (recognizable by all citizens) in a manner that will truely bring about a change in direction that the courts are headed in today. This case can give you the jurisdiction to do that which the American people desire from the top court of the Nation. Leadership, with the citizens best interest in mind for the Nation. You are our best, I expect nothing less than the best from you. This case does "arise under" Article III., Section 2., clause 1. of the United States Constitution. This case also shows you that the courts have "so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power"; (see Rules of the Supreme Court of the United States, Rule 10(a) and (c) pp. 5,6).

3. One example of the less than truthful statements made by the 7th Circuit Court Of Appeals (Writ apdx. p. 3. last pargh.) and also the lower District Court, shows within the segment reformated in this writ appendix pages 37,38, (Writ apdx. Entry p. 12.) is the court's willingness to read into a statement that which they want to point out in terms of the law but that point is clearly missing within the scope of the law. We make reference to the Rooker - Feldman Doctrine and it's application to the review of the several State Court cases. The 7th Circuit, the District Court and the counsel for the respondants make the broad statement that the Rooker - Feldman Doctrine barrs review of State Court cases. Wrong! According to this United States Supreme Court in the cases cited with the said Doctrine, the bar is to the review of State Court cases of final judgment from the States Highest Court, not just any Court. Therefore where the civil rights deprivations have occured within the judicial process of a lower court (State or Federal) under the exceptional laws of all three Federal Statutes of 42 USCS § 1983 and § 1985, together with 28 USCS § 1343, any of the lower court rulings are fair game by reason that those (Id.) statutes were designed and legislated primarily for the violations acted out by government officials, that except for these statutes would be shielded by immunity because of their office or position.

4. In each and every instance where the 7th Circuit or the District Court or the counsels for the respondants have cited a case law declaring their clients immunity, they have mis-stated the law and omitted the clearly written exceptions that

stripps away the immunity.The same is true of stated immunity under *U.S. Constitution Article I., § 6. clause 1.* In the instance of the Courts, the mis-applied law brings a judgment in error which they refuse to correct. These respondants lack immunity on several grounds; (A.) Title *42 USCS § 1983 and 28 USCS § 1343* takes away their immunity on the bases of the civil rights deprivations; (B) the history of this case, which is easily traced by court records that document all that has been said in this petition, shows a clearly marked conspiracy between both State and Federal officials with the common thread of the private Indiana attorney Theadore Lockyear. It is so close that the record will document that the State Court Injunction issued by respondant Stephen Spindler was ordered to be as near like the Federal Injunction issued by respondant John Daniel Tinder, as possible;subject to the terms and conditions of Title *42 USCS § 1985;* (C) with the application of the *Rooker - Feldman Doctrine* to the original case of Perry v. Barnard makes the point that the District Court lacked jurisdiction to hear those issues because that case came directly out of the Indiana Supreme Court but because of the obstructions placed by respondants Lugar and Quayle the case could not take it's normal route, which was engineered to bring the case back into the control of the bribed Federal Judge John Daniel Tinder so that he could protect all of the criminal elements involved by the issue of the Federal Injunction against Perry, depriving Perry of recovery of property losses (including real and personal) for any offense committed either of the first instance by the embezzlement of Perry's money or the second instance resulting from the intrinsic and extrinsic frauds within judicial proceedings, or the third instance of judicial and senatorial mischief with the bribery and payment of protection money in the form of campaign contributions and placement of key people in the high courts to obstruct the justice and deprive due process and equal protection of the law. (see *Healy v. James* supra, Writ apdx. p. 26)

In *Hanna v. Plumer, 380 U.S. 460, 471,* paragh. 3 all to page 472, first line: (also citing Erie opinion)

> [W]e are reminded by the Erie opinion that neither Congress nor the Federal courts can, under the guise of formulating rules of decision for federal courts, fashion rules which are not supported by a grant of federal authority contained in Article I or some other section of

the Constitution; in such areas state law must govern because there can be no other law. - -

In Erie R. Co. v. Tompkins, 304 U.S. 64:
overruling Swift v. Tyson, 16 Pet. 1, held that federal courts sitting in diversity cases, when deciding questions of "substantive" law, are bound by state court decisions as well as state statutes. The broad command of Erie was therefore identical to that of the Enabling Act: federal courts are to apply state substantive law and federal procedural law. - - -

Erie v. Tompkins, West Black's Law Dictionary 6th Edition p. 542.
The landmark case holding that in an action in the Federal court, except as to matters governed by the U.S. Constitution and Acts of Congress, the law to be applied to any case is the law of the State.

When applying Erie and also Hanna we see that the Federal District Court in the case of Perry v. Barnard 745 F. Supp. 1394 @ 1408 used the Federal Statutes of 28 USCS § 1651 to override the exclusive jurisdiction of the Indiana Supreme Court granted by Statute Indiana Code 33-2-3-1 1997, Replacement pp.113-114 and Indiana Constitution Article VII., § 4; Article III., § 1, Burns Indiana Statutes, Constitutions, 1997 Replacement pp204 and 277; and issued an injunction against Perry restricting and regulating Perry's practice of law. (though the practice was for his own personal use only) They did not read the law and the qualifications the law required to write the writ (§ 1651) They wrote the injunction outside their jurisdictions by encroaching upon the Indiana Supreme Court Jurisdiction. Perry was damaged as the result of the deprivations this condition brought on; he has made his claim.

Respectfully submitted by;

Lloyd G. Perry, pro se
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Muncie, Indiana 47302
Phone (765)282-7924

APPENDICES

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1. May 26, 1999 Order of 7th Circuit Court of Appeals Petition For Rehearing En Banc - denied	1.
2. April 30, 1999 Order 7th Circuit Court of Appeals Decision Entry	2-4.
3. April 30, 1999 Order Judgment-Without Oral Argument (Id.)	5.
4. Nov. 12, 1998 United States District Court Southern District of Indiana Indianapolis, Division ENTRY	6.
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6. Sept. 26th 1989 United States District Court Southern District of Indiana Evansville, Divisiion Order Enjoining Plaintiff Perry	16-19
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United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

May 26, 1999

Before

Hon. Richard A. Posner, chief Judge

Hon. Frank H. Easterbrook, Circuit Judge

Hon. Michael S. Kanne, Circuit Judge

Lloyd G. Perry, Plaintiff-Appellant, No. 98-4128 v. United States Of America, et al., Defendant-Appellees.	) Appeal from the United States) District Court for the) Southern District of Indiana,) Indianapolis Division.) No. IP 98-0667-C-H/G) David F. Hamilton, Judge.

ORDER

On May 14, 1999, plaintiff-appellant filed a petitiion for rehearing *en banc*. All the judges on the original panel have voted to deny the petition, and none of the active judges has requested a vote on the suggestion for rehearing *en banc*. The petition is therefore **DENIED.**

UNITED STATES COURT OF APPEALS

For the Seventh Circuit
Chicago, Illinois 60604
Submitted April 22, 1999*

Decided April 30, 1999
Unpublished Order
Not To Be Cited
Per Circuit Rule 53

Before

Hon. RICHARD A. POSNER, Chief Judge

Hon. FRANK H. EASTERBROOK, Circuit Judge

Hon. MICHAEL S. KANNE, Circuit Judge

Lloyd G. Perry,
Plaintiff-Appellant,

No. 98-4128

v.

United States Of America,
et al.,
Defendant-Appellees.

Appeal from the United States District Court for the Southern District of Indiana, Indianapolis Division.
No. IP98-0667-C-H/G

David F. Hamilton,
Judge

ORDER

Lloyd Perry believes that various elected officials and judges have conspired against him to help protect a lawyer who was a former staffer of Senator Richard Lugar. According to Perry, the staffer cheated him but Perry lost his case against the staffer. *See Perry V. Gresk*, No. EV 84-174-C (S.D. Ind. February 21, 1986)

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*After an examination of the briefs and the record, we have concluded that oral argument is unnecessary, and the appeal is submitted on the briefs and the record. See Fed. R. App. P. 34 (a)(2).

(unpublished order). Then Perry sued the Indiana Bar Association, among others, because it refused to take disciplinary action against the lawyer, Paul Gresk. Judge John Tinder, after finding the suit frivolous, enjoined Perry from filing any further complaints in federal district court arising out of or related to any issue in that suit or *Perry v. Gresk*, and we affirmed. *See Perry v. Barnard*, No. EV 88-24-C (S.D. Ind. September 26, 1989) (unpublished order). Perry recently tried, but failed, to get Judge Tinder to lift the injunction, and now has brought suit against the United States, Judge Tinder, the two senators of Indiana at the time Tinder was appointed, two Indiana Judges who entered similar state court injunctions against Perry, and a lawyer who represented various adversaries of Perry in prior litigation. The district court dismissed Perry's suit pursuant to Federal Rule of Civil Procedure 12. We affirm.

Perry's current suit alleges that Judge Tinder and the two Indiana judges-Judge Mathias and Judge Spindler-lacked jurisdiction to issue any of the injunctions against him, that Senator Richard Lugar conspired to put Tinder on the bench in order to make Perry's life difficult, and that former Senator Dan Quayle engineered to have Judge Daniel Manion (who is not a defendant in this suit) appointed to this court as a "disruption guard." Finally, Perry accused another lawyer, Theadore Lockyear, who represented two defendants in *Perry v. Barnard*, of conspiring with the other defendants to frustrate Perry's ability to file lawsuits. Perry asked for a declaration that the injunctions against him were invalid, an injunction against the defendants barring them from enforcing the injunctions against him, and slightly more than three billion dollars in damages.

Perry's attack on the state injunctions is a claim that state judges violated his constitutional rights by issuing injunctions against him. This suit thus amounts to an attempt to overturn the state court injunctions in federal court. Under the *Rooker-Feldman* doctrine, however, we have no jurisdiction to review state court judgments. *See Centres, Inc. v. Town of Brookfield*, 148 F. 3d 699,701-02 (7th Cir. 1998); *Homola v. McNamara*, 59 F.3d 647,650 (7th Cir. 1995).

Perry's requests for injunctive and declaratory relief regarding the federal injunction also fail. We determined this injunction to valid on appeal, *see Perry v. Barnard*, No. 89-3575, 1990 WL 121481 (7th Cir. Aug. 17, 1990) (unpublished order), and Perry's current arguments against the injunction are simmarly unavailing. Perry's damages claims fare no better. Because Judges Tinder, Matthais and Spindler had jurisdiction to issue their injunctions, they are entitled to absolute immunity. *See Stump v. Sparkman*, 435 U.S. 349,355-357 (1978); *Homola*, 59 F.3d at 651 Former Senator Quayle and Senator Lugar are entitled to absolute immunity under the Speech and Debate Clause of the Constitution for actions they take which are "an integral part of the deliberative
and communicative processes" by which they participate in judicial appointments. *Gravel v. United States, 408 U.S. 606, 625 (1972); see also* U.S. Const. Art. 1, sec. 6 col. 1. Moreover, the claims against Lockyear are within the scope of Judge Tinder's valid injunction. Therefore the district court properly dismissed the claims against him.

Perry does not seem to know when to give up. This appeal is frivolous, and Perry filed this suit even after being told by other federal judges that his claims are frivolous. Therefore we order Perry to show cause within 14 days of this order why he should not be sanctioned for filing a frivolous appeal, and why he should not be forbidden to file any other suit in federal court (other than a habeas corpus petition or a criminal appeal) in this Circuit until the sanction is paid in full. *See* Fed. R. App. P. 38; *Support Systems Int'l. Inc. v. Mack*, 45 F.3d 185 (7th Cir. 1995). The appellees should file, with 14 days, a statement of the legal expenses and other costs reasonably incurred in defending this appeal.

AFFIRMED; ORDER TO SHOW CAUSE ISSUED.

UNITED STATES COURT OF APPPEALS

For the Seventh Circuit

Chicago, Illinois 60604

JUDGMENT-WITHOUT ORAL ARGUMENT

Date: April 30, 1999

BEFORE:

Honorable RICHARD A. POSNER, Chief Judge
Honorable FRANK H. EASTERBROOK, Circuit Judge
Honorable MICHAEL S. KANNE, Circuit Judge

No. 98-4128

Lloyd G. Perry,
Plaintiff -Appellant

v.

United States Of America, Richard Lugar, Paul D. Mathias et al.,
Defendant - Appellees

Appeal from the United States District Court for the
Southern District of Indiana, Indianapolis Division
NO. 98 C 667, David F. Hamilton, Judge

The judgment of the District Court is AFFIRMED, with costs. Appellant Lloyd G. Perry is ORDERED TO Show Cause within 14 days of this order why he should not be sanctioned for filing a frivolous appeal, and why he should not be forbidden to file any other suit in federal court (other than a habeas petition or a criminal appeal) in this circuit until the sanction is paid in full. See Fed. R.App. P. 38; Support Systems Int'l, Inc. v. Mack, 45F.3d 185 (7th Cir. 1995). The appellees should file, within 14 days, a statement of the legal expenses and other costs reasonably incurred in defending this appeal. The above is in accordance with the decision of this court entered on this date.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
NOV 12, 1998
U.S DISTRICT COURT
INDIANAPOLIS, INDIANA

Lloyd G. Perry,	)	
Plaintiff,	)	
vs.	)	IP 98-667-C-H/G
	)	
Senator Richard Lugar,	)	
et al.,	)	
Defendants.	)	

ENTRY

This cause is before the court on the plaintiff's motion to reconsider. The plaintiff's motion is directed to the entry of final judgment on the clerk's docket on October 23, 1998.

"A Rule 59(e) motion may only be granted if there has been a mistake of law or fact or if there is newly discovered evidence not previously available." *Gendron v. United States,* 154 F.3d 672,674 (7th Cir. 1998) (citing *Figgie Int'l, Inc. v. Miller,* 966 F.2d 1178,1180 (7th Cir. 1992)). Because the plaintiff's motin to reconsider does not identify such circumstances, the motion to reconsider is **denied.**

So ordered.

"s/_____"
DAVID F. HAMILTON, Judge
United States District Court

Date: Nov. 12, 1998

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
OCT. 23, 1998
U.S. CLERK'S OFFICE
INDIANAPOLIS, INDIANA

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
CERTIFIED:
A TRUE COPY
"s/_____".
CLERK OR DEPUTY
LAURA A. BRIGGS
CLERK

Lloyd G. Perry,)
Plaintiff,)
vs.)
)
Senator Richard Lugar,)
et al.,)
Defendants.)

ENTRY DISCUSSING MOTIONS TO DISMISS

For the reasons explained in this Entry, the defendants' motions to dismiss must be granted. the plaintiff's motion for summary judgment is denied.

I. Background

Plaintiff Lloyd Perry ("Perry") seeks declaratory and injunctive relief and damages. The cast of defendants each of whom has appeared by counsel and has filed a motion to dismiss, includes the following:

Senator Richard Lugar --- United States Senator from the State of Indiana

Ex Senator J. Danforth Quayle - - Former United States Senator from the State of Indiana

Hon. John Daniel Tinder - - Judge, United States District Court for the Southern District of Indiana

Hon. Stephen Spindler - - Judge, Noble Superior Court
Hon. Paul D. Mathias- -Judge, Allen Superior Court
Theadore Lockyear - -Evansvillle, Indiana attorney

Perry has been unseccessful in various litigation in this court and the courts of Indiana. His obdurate pursuit of this litigation in the face of rulings with which he did not agree brought forth orders restricting his ability to file in those cases or in other cases. Perry attributes the result of these prior lawsuits to judicial and senatorial mischief.

II Discussion [1]

A. Standard Under Rule 12(b)(6)

The defendants challenge the sufficiency of the amended complaint pursuant to Rule 12(b). The purpose of a motion to dismiss is to test the sufficiency of the complaint, not to decide its merits. *Gibson v. City of Chicago,* 910 F.2d 1510, 1520 (7th CIR.) 1990). *cert. denied,* 502 U.S. 855 (1991). In making the assessment required by the motions to dismiss, the court liberally construes Perry's allegations and applies the principle that "a complaint must contain either direct or inferential allegations respecting all the material elements necessary to sustain a recovery under some viable legal theory. *Herdrich v. Pegram,* 154 F.3d 362,364 (7th Cir. 1998) (citing *Sutliff, Inc. v. Donovan Cos., Inc.,* 727 F.2d 648, 654 (7th Cir. 1984)). If a plaintiff pleads facts which show that he has no claim, then he has pleaded himself out of court. *Early v. Bankers Life & Casualty Co.,* 959 F.2d 75,78 (7th Cir. 1992); *Conn v. GATX Terminals Corp.,* 18 F.3d 417,419 (7th Cir. 1994)

---

1 Perry has asserted from the outset in this action that a three-judge court is required. He is incorrect. A three-judge court is not required if the constitutional claim is "wholly insubstantial," "frivolous," or "essentially fictitious." *Bailey v. Patterson,* 369 U.S. 31,33 (1962). A claim is insubstantial if it is obviously without merit or clearly determined by previous case law. *Goosby v. Osser,* 409 U.S. 512,518 (1973); *Ex parte Poresky,* 290 U.S. 30,32 (1933); *Armour v. Ohio,* 925 F.2d 987, 989 (6th Cir. (1991). A single judge "has an obligation to examine the complaint to determine whether it states a substantial claim" before burdening two other

In Iacompo v. Hasbron, Inc., 929 F. Supp. 562 (D.R.I. 1996), a federal district court congently held that, "[l]ike a battlefield surgeon sorting the hopeful from the hopeless, a motion to dismiss invokes a form of legal triage, a paring of viable claims from those doomed by law." *Id.* at 567. See also *Guckenberger v. Boston University,* 957 F.Supp. 306, 313 (D. Mass. 1997). This technizue is well-suited to Perry's action.

B. Claim against Defendants Lugar and Quayle

Defendants Lugar and Quayle are alleged to have acted improperly in supporting the naminations of and voting to confirm the nominations of John Daniel Tinder as Judge of the United States District Court for the Southern District of Indiana and Daniel Manion as Judge of the United States Court of Appeals for the Seventh Circuit.

The Speech and Debate Clause of the United States Constitution, rooted in the English Bill of Rights, 1 W. & M. Sess. 2 ch. 2 (1689), is designed to preserve legislative independence. *See United States v. Brewster,* 408 U.S. 501, 508 (1972). The Speech or Debate Clause provides that legislators "shall not be questioned in any other Place" for "any Speech or Debate in either House." U.S. Const. art. 1 § 6, cl. 1.

> The immunities of the Speech or Debate Clause were not written into the Constitution simply for the personal or private benefit of Members of Congress, but to protect the integrity of the legislative process by insuring the independence of individual legislators.
>
> *United States v. Brewster,* 408 U.S. 501,507(1972)

The Supreme Court has interpreted the Speech and Debate Clause as erecting an absolute bar against all lawsuirs challenging a Senator or representative's legitimate legislative activities--i.e. those activities that are " an integral part of the

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1 judges by requesting a three-judge court to consider an insubstantial or frivolous claim. *Miller v. Daniels,*509 F. Supp. 400, 405 (S.D.N.Y. 1981). No three-judge court is warranted based on the circumstances of this case.

deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration which the Constitution places within the jurisdiction of either House." *Gravel v. United States*, 408 U.S. 606, 625 (1972). The clause protects not only the speech and debate of legislators, but also voting on legislative acts. *See Kilbourn v. Thompson*, 103 U.S. 168, 204 (1880).

"[O]nce it is determined that Members are acting within the 'legitimate legislative sphere' the Speech or Debate Clause is an absolute bar to interference." *Eastland v. United States Servicemen's Fund*, 421 U.S. 491, 503 (1975) (quoting *Doe v. McMillan*, 412 U.S. 306, 314 (1973)). The expression of legislative judgment on the appropriateness of judicial nominations was squarely placed on the shoulders of defendants Lugar and Quayle, as with every other United States Senator when such nominations are submitted. The motion to dismiss of these defendants must be granted.

B. Claims against Defendant Tinder

Perry's claim against Judge Tinder is entirely derived from and related to the rulings made by Judge Tinder in *Perry v. Barnard*, No. Ev 88-24-C. One such ruling, perhaps the one most irksome to Perry, is the "Order Enjoining Plaintiff Perry" issued on September 26, 1989. In such Order, Perry was permanently enjoined from filing in any federal district court, without leave of that court, claims associated with the issues or parties, witnesses, or attorneys involved in *Perry v. Gresk*, No. Ev 84-174-C (S.D. Ind. February 21, 1986, or in *Perry v. Barnard*, No. EV 88-24-C.

Perry challenged the rulings on appeal, but without success. Perry cannot change the outcome of the prior suit with a new lawsuit. *See Spiegel v. Continental Illinois National Bank*, 790 F.2d 638,646 (7th Cir. 1986), *cert denied*, 479 U.S. 987 (1986). Judge Tinder, moreover, is absolutely immune to Perry's claim for damages unless his acts were taken in the "clear . . . absence of all jurisdiction and w[ere] not . . . judicial act[s]." *Stump v. Sparkman*, 435 U.S. 349,357,360-62 (1978). Indetermining whether an act is judicial, courts have considered the following factors: (1) whether the act or decision involves the exercise of discretion or judgment, or is rather a ministerial act which might as well have been committed by a private person as a judge; (2) whether the act is

normally performed by a judge; (3) the expectations of the parties, *i.e.*,whether the parties dealt with the judge as judge. *Lowe v. Letsinger*,772 F.2d 308 (7th Cir. 1985)

While Perry may disagree with the manner in which judicial rulings were made in his prior litigation or the particular judgment or discretion which was shown, his disagreement does not destroy their undeniable judicial character. In *Reed v. Village of Shorewood*, 704 F.2d 943,951 (7th Cir. 1983), the Court recognized that "[j]udges of course have absolute immunity from damage suits based on their judicial rulings."This reasoning is supported by the Supreme Court's decision in *Mireles v. Waco*, 502 U.S. 286,288 (1991), where the Court reaffirmed that a judge is absolutely immune from suit for actions taken in his or her judicial capacity if those actions were not taken in the complete absence of all jurisdiction. This immunity is not overcome by allegations of bad faith or malice. The rulings attributed to Judge Tinder were not taken in the clear absence of all jurisdiction. Beyond this, it has been correctly noted that " the motives of an official are irrelevant to the determination of absolute immunity from a [42 U.S.C. §] 1983 suit," *Lomaz v. Hennosy*, 151 F.3d 493,498 n.7 (7th Cir. 1998), and the same applies to *Bivens* suits against federal officials. [2]

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[2] Judge Tinder is sued in this action only as Judge of the United States District Court for the Southern District of Indiana. There is an allusion at the top of page 2 of the amended complaint, however, to an apparent decision not to file federal criminal charges on a matter-the alleged embezzlement of money from Perry-- "brought" to Judge Tinder while he was serving as the United States Attorney for the Southern District of Indiana. This allusion, even if intended or nurtured into an actual claim, would not support a viable claim against Judge Tinder because a prosecutor is entitled to immunity with respect to decisions not to prosecure, acts "intimately associated with the judicial phase of the criminal process." *Imbler v. Pachtman*, 424 U.S. 409, 430 (1976). This immunity applies to decisions not to prosecute. *Hammond v. Bales*, 843 F2d. 1320, 1321 (10th Cir. 1988) ("[T]he decision not to prosecute criminal charges is similar to the decision to prosecute and should therefore be protected by absolute immunity.") Such

C. Claims against Defendants Spindler and Mathias

Perry was the defendant and "cross-plaintiff" in an action filed in the Noble Superior Court styled *Curtis v. Perry*, No. 57D01-9006-CT-018. Judge Spindler was assigned to such action, and on August 6, 1991, entered an order enjoining Perry from filing in any court in the State of Indiana any lawsuit arising out of or reltated to No. 57D01-9006_CT-018 or *Perry v. Fox Contractors, Inc., et al.*, No. 02C01-8908-CT-93 in the Allen Circuit Court. Judge Mathias was assigned to litigation in the Allen Circuit Court to which Perry was a party, styled as *Perry v. Barry Vande Zeande and Barry's Inc.*, No. 02D01-9503-CT-122, and made rulings which Perry believes were incorrect and unwarranted.

Perry's claims associated with either the injunction issued by Judge Spindler in *Curtis v. Perry*, No. 57D01-9006-CT-018 or with the outcome or any particular ruling made in state court litigation cannot be reviewed in this forum. *Newman v. State of Indiana*, 129 F.3d 937,942 (7th Cir. 1998) ("The premise of a suit to obtain damages for wrongful interference . . . is that the decisions by the Indiana courts were incorrect. We could not give the Newmans the relief they seek without in effect reviewing and reversing the Indiana courts.").

Perry's claims for damages against Judge Spindler and Judge Mathias are also legally deficient for precisely the same reason-absolute judicial immunity-already discussed with respect to the same type of claim against Judge Tinder.

This is a straightforward application of the "Rooker Feldman" doctrine, which bans the lower federal courts from considering claims that amount to requests for appellate review of state court decisions. *See Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); District of Columbia Court of Appeals, 460 U.S. 462 (1983)

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(2) Such absolute immunity applies equally to state and federal prosecutors. *See Thompson v. Walbran*, 990 F.2d 403,404 (8th Cir. 1993); *Schrob v. Catterson*, 948 F.2d 1402, 1408 (3d Cir. 1991); *Ehrlich v. Guiliani*, 910 F.2d 1220, 1222 n.2 (4th Cir. 1990).

D. Claims against Defendant Lockyear

Defendant Lockyear is an Evansville, Indiana, attorney. His presence in this action destroys any conceivable diversity jurisdiction. Lockyear is alleged to have corruptly represented Perry's adversaries in various litigation.

The claim against Lockyear in relation to his representation in federal court is clearly within the scope of the injunction in *Perry v. Barnard*, No. EV 88-24-C. It will therefore be dismissed.

The claim against Lockyear in relation to his representation in the courts of Indiana did not involve action "under color of state law," and consequently no viable claim could be asserted pursuant to 42 U.S.C. § 1983. *Williams v. Dark*, 844 F. Supp. 210, 213 (E.D. Pa. 1993) (private attorney acting on behalf of client is not state actor for purposes of section 1983), *aff'd mem.*, 19 F.3d 645 (3d Cir. 1994). Perry's state litigation will not support the cloak of "state action." The reason for this is that the plaintiff's allegation of a conspiracy is nothing more than the assertion of a legal conclusion, which is insufficient. *Goren v. New Vision International*, 1998 WL 557579, *9 (7th Cir. Sept. 2, 1998)
("It is well established that a complaint may be dismissed if it contains only conclusory, vague and general allegations of a conspiracy."). Attaching bare legal conclusions to the facts narrated in the complaint will not save the complaint. *Bowman v. City of Franklin*, 980 .f.2d 110, 1109 (7th Cir. 1992), *cert. denied*, 508 U.S. 940 (1993).

Apart from Judge Tinder's absolute immunity from damages when serving as prosecutor, Perry suffered no congnizable deprivation based on the apparent decision not to proceed with charges of embezzlement. A private party does not have standing to compel the prosecution of another. "The federal courts have customarily refused to order prosecution of particular individuals at the instance of private persons." *Rosquist v. Jarrat Construction Corp.*, 570 F. Supp. 1206, 1211 (D.N.J. 1983) (quoting *Nadar v. Saxbe*, 497 F.2d 676,679-81 (D.C. Cir. 1974) This is the law even where the plaintiff alleges that he was the "victim" of illegal action. *Nieves-Ramos v. Gonzalez-De-Rodriguez*, 737 F. Supp. 727, 728 (D.P.R. 1990).

III. Conclusion

In *Homola v. McNamara*, 59 F.3d 647,650 (7th Cir. 1995), Judge Easterbrook made the following observations for a panel of the Seventh Circuit Court of Appeals:

> Litigation is society's way to resolve disputes. Courts invite parties to make their evidence and arguments known. Appellate courts correct errors. After the process has run its course, there should be peace between the former adversaries. Many persons do not see litigation this way, however. They adopt a never-say-die attitude. If the first case goes against them, then some chicanery must be to blame. Now if the courts are unable to separate truth from fiction--the premise of this attitude toward the results of litigation--one would suppose that the remedy lies in a political forum, or perhaps in an occasion for writing an expose. Yet many litigatnts who refuse to accept judgments against them see their balm as--more litigation!

Perry is the paradigmatic disgruntled litigant. Although he has undertaken the present case without counsel and his pleadings must be construed liberally, *Haines v. Kerner*,404 U.S. 519,520 (1972); *Casteel v. Pieschik*, 3F.3d 1050, 1056 (7th Cir. 1993) (citing *Vanskike v. Peters*, 974 F.2d 806,807 (7th Cir. 1992), *cert. denied*,113 S. Ct. 1303 (1993) (pro se litigant not held to the same standards as litigants aided by counsel)), a different set of rules for such litigants is not permitted. *Jones v. Phipps*, 39 F.3d 158, 163 (7th Cur, 1994).

Perry has advanced his claims with great energy, but there is nothing which indicates that he has been abused by the judicial proceedings in which he has been involved in either the federal courts or the courts of Indiana. On the contrary, it is Perry who has demonstrated his appetite for abusing the judicial process, and he has been dealt with accordingly. Claims concerning the judicial disqualification statutes governing federal judicial officers connot even be brought in a direct appeal after final judgment, *United States v. Sidener*, 876 F.2d 1334,1336 (7th Cir. 1989), much less years after the conclusion of litigation in which such a

The defendants' motions to dismiss are therefore **granted.** Perry's motion for summary judgment is **denied** because his motion does not, and under the circumstances could not, show his entitlement to judgment as a matter of law.

Judgment consistent with this Entry shall now issue. The costs of this action are assessed against the plaintiff, Lloyd G. Perry.

So ordered.

"s/_____",
DAVID F. HAMILTON, Judge
United States District Court

Date: Oct. 23, 1998

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

LLOYD G. PERRY, Plaintiff,	)	
vs.	)	EV 88-24-C
LINDA K. BARNARD, et al., Defendants.	)	

ORDER ENJOINING PLAINTIFF PERRY

Lloyd G. Perry is hereby permanently ENJOINED from filing (or having filed on his behalf) in any federal district court without leave of that court, any lawsuit arising out of or related to Perry v. Gresk, No. EV 84-174-C (S.D. Ind. February 21, 1986) (unreported), aff'd, No. 86 1765 (7th Cir. November 21, 1986) (unreported), as well as this cause of action.

Specifically, Perry is permanently ENJOINED from filing (or having filed on his behalf) in any federal district court without leave of that court, any lawsuit against one or more of the following parties who were named as defendants in either Perry v. Gresk or Perry v. Barnard:

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
CERTIFIED:
A TRUE COPY

"s/_____".
CLERK OR DEPUTY
6-6-97
GERALDINE
TREUTELLAR CROCKETT
CLERK

Paul D. Gresk
Ralph P. Zoercher
George Astrike
Tell City National Bank

William C. Welborn
Georgia Surety Company
C. Lawrence Jewett
Phillip C. Moulthorop
American Druggists' Insurancy Company
Insurance Company of North America
Lamar Street
Roger H. West
Kelco of Indiana, Inc.
Kelco Inc.
Tri-State Reclamation, Inc.
Roger S. Curry
Lee Ringman
Jasper State Bank
German American Bank
James DeMotte
David Hubster
Jasper Engine & Transmission, Inc.,
James J. Hartz
C.I.T. Corporation
Christopher Baker
Patrick McSoley
William Beckman
John B. Scales
Jennie L. Richardson
Raymond G. Fritz
George Meece, Jr.
State of Indiana, Division of Reclamation of the Indiana Department of Natural Resources
The Indiana State Attorney General
Larry E. Forler

Linda K. Barnard
Sheldon D. Breskow
Sherill Colvin
G. Daniel Kelley Jr.
Clifford Mashmeyer
James McDonald, Jr.James Puckett
Wesley W. Ratliff, Jr.
Itsia Rivera
Sarah B. Davies

Bruce Kotzan
Hansford Mann
James T. Neal
C. Corydon Randall
Randal T. Shepard
Thomas H. Singer
Howard S. Young, Jr.
Rabb Emison
Russ Hart

Perry is also permanently ENJOINED from filing (or having filed on his behalf) in any federal district court without leave of that court, any lawsuit arising out of or related to any issue of issues in Perry v. gresk, which was a complaint under 42 U.S.C. § 1983 and § 1985 with pendent state claims against various attorneys, parties and witnesses who were involved in previous lawsuits with Perry; and any lawsuit arising out of or related to any issue or issues in Perry v. Barnard, which was a complaint under 42 U.S.C. § 1983 against those defendants for failing to act on his requests for disciplinary action against various attorneys and judges who were also involved in previous lawsuits with Perry.

The following procedures are to be followed in order to comply with this injunction. In seeking leave to file a complaint concerning the above--stated matters, in this or any other federal district court, Perry (or anyone else acting in his behalf) must file with the complaint a motion captioned "Motion pursuant to Court Order Seeking Leave to File." The following documents must be attached to that motion: 1) a copy of this order and the accompanying entry and judgment; 2) a sworn affidavit certifying that the claims that he wishes to present are new claims never before raised by him in any state or federal court; 3) a list of the full captions of each and every suit previously filed by him or on his behalf against each and every defendant; 4) a copy of each such complaint and a certified record of its disposition. A copy of this order must be served on each defendant when and if leave to file the new case is granted. Any such action that Perry, or anyone acting on his behalf, seeks to file in any federal district court will not be file marked until the judge of that court grants Perry or anyone acting on his behalf leave to file.

Upon failure to comply with any of the terms of this injunction, Perry may be found in contempt of this court and

punished accordingly. Any defendant in any federal court suit who believes that Perry has failed to comply with the terms of this injunction may file an affidavit to that effect with the Clerk of the court, Southern District of Indiana, Evansville Division, under the EV 88-24-C docket number.

Nothing in this order shall be construed as affecting Perry's ability to defend himself in any criminal action. Nothing in this order shall be construed to deny Perry access to the federal courts through the filing of a petition for a writ of habeas corpus or other extraordinary writ. Nothing in this order shall be construed as denying Perry access to the United States Court of Appeals.

IT IS SO ORDERED this 26th day of September 1989.

John Daniel Tinder, Judge
United States District Court

copies to;
Lloyd G. Perry
7999 Meadow Lane
Newburgh, IN. 47630

Robert Spear
Deputy Attorney General
Office of the Attorney General
Room 219, State House
Indianapolis, IN 46204

Ted Lockyear
Lockyear & Lockyear
555 Sycamore Street
P.O. Box 3515
Evansville, IN 47734-3515

STATE OF INDIANA) IN THE NOBLE SUPERIOR COURT
) SS:
COUNTY OF NOBLE)
)
)
MARVIN R. CURTIS,)
Plaintiff,)
)
vs.) CAUSE NO. 57D01-9006-CT-018
)
LLOYD G. PERRY,)
Defendant)
& Cross-Plaintiff,)
)
)
VS.) FILED
) Aug 02 1991
MARVIN R. CURTIS "s/_____".
CLERK NOBLE SUPERIOR COURT
together with all other herein listed)
defendants of the original case of)
Perry v. Fox, et al., of the Allen)
Circuit Court under Cause No.)
02C01-8908-CT-93 and as follows:)

FOX CONTRACTORS, INC.,)
DALLAS DAY, BOB BAKER,)
RON CUMMER,)
ALVEY LARAMEN, CLIFFORD)
LYNN, RANDY BECKTEL,)
DALE KIRKENDAU,)
MOELLERING CONSTRUCTION,)
Inc., SCOTT HEIL, CHARLES)
ACHESON, NED SCHULTZ,)
MILLER BROTHERS)
CONSTRUCTION, Inc.,)
BERNIE _____, of)
Miller Bros., DENNEY _____,)
of Miller Bros., Inc., _____,)
JOHNSON of Miller Bros., Inc.)
CHARLES CHRISTMAN Jr.,)

CRIDER & CRIDER)
EXCAVATING AND PAVING,)
WAYNE PANCAKE, PAUL)
GRIMM, DICK YEARLING,)
S.E. JOHNSON COMPANIES,)
Inc., HERB WIEDNER, DAVE)
DAY, INTERNATIONAL UNION)
OF OPERATING ENGS. LOCAL)
#103, DAN SMART, KENNETH)
JOHNSON, MIKE WALL, &)
New Defendants Under The)
Conspiracy Theory:)
STEPHEN J. LERCH and LEVINE)
& LERCH FIRM, STEPHEN J.)
LEWIS and HALLER and COLVIN)
FIRM, KAREN WALKER and)
LEBAMOFF FIRM, DAVID K.)
HAWK and HAWK, HAYNIE,)
GALLMEYER FIRM,)
DENNERLINE, GROTH & BAIRD)
FIRM, SCOTT NIEMANN, and)
ROTHBERG, GALLMEYER,)
FRUECHTENICHT & LOGAN)
FIRM, LEONARD E. EILBACHER ,)
also SCOTT L. BUNNELL, and)
HUNT, SUEDHOFF, BORROR &)
EILBACHER, BOBBY POTTERS)
of I.C.R.C., and KAREN)
FREEMAN of I.C.R.C.)

ORDER ENJOINING DEFENDANT AND
CROSS-PLAINTIFF PERRY

The defendants, J.E. Crider & Sons, denominated "Crider & Crider Excavating and Paving," and other cross-defendants, having filed herein their verified application for permanent injunction and, to the extent that any cross-defendant has not joined in such application, the Court sua sponte now deems each of said parties as applicants, and orders, as follows:

1. Lloyd G. Perry ("Perry") is hereby permanently enjoined from filing in any court in the State of Indiana any lawsuit arising out of or related to Perry vs. Fox Contractors, Inc., et al., Allen Circuit Court, Cause No. 02C01-8908-CT-93, and to this action.

2. Perry is permanently enjoined from filing, or having filed on his behalf, in any court of the State of Indiana without leave of that court, any lawsuit against any one or more of the following parties who were named as defendants in either Perry vs. Fox Contractors, Inc., et al., or this action, or subpoenaed by Perry to testify in this action, and any attorney of record in either action:

Thomas L. Ryan, Judge of the Allen Circuit Court;
Fox Contractors Inc., its officers, directors, or agents;
Dallas Day;
Bob Baker;
Alva Lahrman;
Clifford Linn;
Randall Bechtold;
Dale Kirkendale;
Moellering Construction Co., Inc., its officers, directors or agents;
Scott Hile;
Charles Acheson;
Ned Schultz;
Miller Brothers Construction, Inc., its officers, directors, or agents;
Bernard Nartker;
Denny Warner;
Charles Christman, Jr.,;
Crider & Crider Excavating & Paving, its officers, directors or agents;
Wayne Pancake;
Paul Grimm;
Richard Yearling;
S.E. Johnson Companies, Inc., its officers, directors or agents;
Herbert Widener :
David Day;
Local Union No. 103, International Union of Operating

Engineers ("Local 103"), its officers, directors or agents;
Dan Smart;
Michael Wall;
Kenneth Johnson;
Greg Johnson (Miller Bros.);
Stephen J. Lerch;
Stanley A. Levine;
Levine & Lerch, Attorneys at Law;
Stephen E. Lewis;
Cynthia Rockwell;
Haller & Colvin, Attorneys at Law;
Karen S. Walker;
Thomas P. Boyer;
Lebamoff Law Offices;
David K. Hawk;
Hawk, Haynie & Gallmeyer, Attorneys at Law;
William R. Groth;
Fillenwarth, Dennerline, Groth & Baird, Attorneys at Law;
Scott T. Niemann;
Rothberg, Gallmeyer, Fruechtenicht & Logan, Attorneys at Law;
Leonard E. Eilbacher;
Haller and Colvin Firm;
Karen Walker and Lebamoff firm;
David K. Hawk and Hawk , Haynie, Gallmeyer Firm;
William T. Groth and Fillenwarth, Dennerline, Groth & Baird Firm, Scott Niemann and Rothberg Gallmeyer, Fruechtenicht & Logan Firm,
Leonard E. Eilbacher;
Scott L. Bunnell;
Hunt, Suedhoff, Borror & Eilbacher, Attorneys at Law;
Daniel Leininger;
J. Philip Burt;
Burt, Blee, Dixon & Sutton, Attorneys at Law;
Gary J. Rickner;
Thomas K. Kimbrough;
Barrett & McNagny, Attorneys at Law;
Josef D. Musser;
Browne, Spitzer, Herriman, Browne, Stephenson & Holderead,Attorneys at Law;
Indiana Civil Rights Commission;

Bobby Potters;
Charles Johnson;
Karen Freeman; and
Kirk Knoll, Deputy Attorney General.

3. Perry is permanently enjoined from filing, or having filed on his behalf in any court of the State of Indiana without leave of that court, any lawsuit arising out of or related to any issue or issues in Perry vs. Fox Contractors, Inc., et al., or the purported cross-claim of Perry in this legal action.

4. Perry is permanently enjoined from causing any subpoena to issue by any clerk of a court of the State of Indiana against any of the aforesaid organizations, their officers and directors, or any aforesaid persons, judicial officers, or members of any law firm, without following the procedures set forth below, which are necessary to comply with this injunction.

5. The following procedures are to be followed in order to comply with this injunction. In seeking leave to file a complaint concerning the above-stated matters, in this or any other court of the State of Indiana, Perry (or anyone else acting in his behalf) must file with the complaint a motion captioned "Motion Pursuant to Court Order Seeking Leave to File." The following documents must be attached to that motion: (1) a copy of this order and the accompanying findings of fact, conclusions of law, and judgment; (2) a sworn affidavit certifying that the claims that he wishes to present are new claims never before raised by him in any state or federal court; (3) a list of the full captions of each and every suit previously filed by him or on his behalf against each and every proposed defendant; (4) a copy of each such complaint and a certified record of its disposition. A copy of this order must be served on each defendant when and if leave to file the new case is granted. Any such action that Perry or anyone acting on his behalf seeks to file in any court of the State of Indiana will not be file marked until the judge of that court grants Perry or anyone acting on his behalf leave to file.

6. Similarly, Perry shall not cause a subpoena to be issued for any of the organizations or persons listed in paragraph 2 above, without express leave of the presiding judge of that court, and only after filing with such court a copy of this order and bringing the same to the attention of the presiding judge.

7. Upon failure to comply with any of the terms of this injunction, Perry may be found in contempt of this court and punished accordingly. Any defendant in any court of the State of Indiana who believes that Perry has failed to comply with the terms of this injunction may file an affidavit to that effect with the Clerk of the Noble Superior Court, in Cause No. 57D01-9006-CT-018.

8. Nothing in this order shall be construed as affecting Perry's right of appeal herein, his ability to defend himself in any criminal action, or to deny his access to the Court of Appeal or the Supreme Court of Indiana for any purpose.

IT IS SO ORDERED this 6 day of August, 1991.

"s_____".
Stephen Spindler, Judge
Noble Superior Court

STATE OF INDIANA

SEAL

NOBLE COUNTY COURTS

I, Diann Bortner,Clerk of Noble County Courts hereby certify that the foregoing is a true and correct copy of the original on file in this office. IN WITNESS WHEREOF, I hereunto subscribe my name and affix the seal of the Noble Cournt Court.
this 21 day of Jan , 1998.
"s/_____".
Diann Bortner, Clerk, Noble County Courts
By: "s/_____". Deputy

HEALY v. JAMES 33L Ed 2d 865 @ 896

Supreme Court;

In answer to the defendant's allegations that the mere existence of the statute tended to inhibit the exercise of constitutionally protected rights by engendering an unhealthy fear that one could find himself unwillingly embroiled in criminal liability held that the statute was not unconstitutional because it provided that a defendant had to be proven to have had knowledge of the proscribed advocacy of illegal aims before he could be convicted. It is, of course true that quasi political parties or other groups that may embrace both legal and illegal aims differ from a technical conspiracy, which is defined by its criminal purpose, so that all knowing association with the conspiracy is a proper subject for criminal prosecution as far as First Amendment liberties are concerned, explained the court. If there were a similar blanket prohibition of association would be impaired, said the court, but deeper into freedom of association than is necessary to deal with the substantive evils that Congress has a right to prevent. Thus the court concluded, the member for whom the organization is a vehicle only for the advancement of legitimate aims and policies does not fall within the ban of the statute, for he lacks the requisite specific intent to bring about the overthrow of the government as speedily as circumstances will permit.

Constitutional Provisions

United States Constitution:

A. Article III., Section 2. clause 1. & 2. West Black's Law Dictionary, Sixth Edition, p. 1644.

Section 2. [1] The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; - to all Cases affecting Ambassadors, other public Ministers and Consuls; - to all Cases of admiralty and maritime Jurisdiction; - to Controversies to which the United States shall be a Party; - to Controversies between two or more States; - between a State and Citizens of another State; - between Citizens of different States; - between Citizens of the same State claiming Lands under the Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

[2] In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions and under such Regulations as the Congress shall make.

B. Article IV., Section 4. West Black's Law Dictionary, Sixth Edition p. 1645.

Section 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

C. Article I., Section 6, clause 1. West Black's Law Dictionary, Sixth Edition, p. 1640

Section 6. [1] The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of

the United States. they shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

Constitution of Indiana

A. Article I., § 12, Burns Indiana Statutes, Constitutions 1997 Replacement, p. 30.

§ 12. Courts open - Due course of law - Administration of justice. -- All courts shall be open; and every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase, completely, and without denial; speedily, and without delay. [As amended, P.L. 383-1983, as adopted Nobember 7, 1984.]

B. Article III., § 1., Burns Indiana Statutes, Constitutions 1997 Replacement, p. 204.

§ 1. Three departments. - The powers of the Government are divided into three departments; the Legislative, the Executive including the Administrative, and the Judicial; and no person, charged with official duties under one of these departments, shall exercise any of the functions of another, except as in this Constitution expressly provided.

C. Article VII., § 4., Burns Indiana Statutes, Constitutions 1997 Replacement, p. 277.

§ 4. Jurisdiction of Supreme Court. - The Supreme Court shall have no original jurisdiction except in admission to the practice of law; discipline or disbarment of those admitted; the unauthorized practice of law; discipline, removal, and retirement of justices and judges; supervision of the exercise of jurisdiction by the other courts of the State; and issuance of writs necessary or appropriate in aid of its jurisdiction. The Supreme Court shall exercise appellate jurisdiction under such terms and conditions as specified by rules

except that appeals from a judgment imposing a sentence of death, life imprisonment or imprisonment for a term greater than fifty years shall be taken directly to the Supreme Court. The Supreme Court shall have, in all appeals of criminal cases, the power to review all questions of law and to review and revise the sentence imposed. - - As amended - -

Statutes Involved:

1. 28 USCS § 144, Federal Rules of Civil Procedure by Foundation Press, p. 566.

§ 144. Bias or prejudice of judge.

Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it with such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith. - - -

2. 28 USCS § 455, Federal Rules of Civil Procedure by Foundation Press, pp. 569-571.

§ 455. Disqualification of justice, judge, or magistrate

(a) Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with

whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

(3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) Is acting as a lawyer in the proceeding;

(iii) Is known by the judge to have an interest that could be substantially affectd by the outcome of the proceeding;

(iv) Is to the judge's knowledge likely to be a material witness in the proceedin[g].

3. Public Law 100-702 [H.R. 4807] (Judicial Improvment and Access To Justice) Act 102 STAT. 4642, at STAT. 4650-4651.

Sec. 403 Rules by Certain Courts and Orders by Circuit Judicial Councils and the Judicial Conference.

(a) Rules by Certain Courts, --(1) Section 2071 is amended - -

(A) by inserting "(a)" before "The"

(B) by striking out "by the Supreme Court" and inserting in lieu thereof "under section 2072 of this title"; and

(C) by adding at the end the following:

"(b) Any rule prescribed by a court, other than the Supreme Court, under subsection (a) shall be prescribed

only after giving appropriate public notice and an opportunity for comment. Such rule shall take effect upon the date specified by the prescribing court and shall have such effect on pending proceedings as the prescribing court may order. (102 STAT. 4650)

"(c)(1) A rule of a district court prescribed under subsection (a) shall remain in effect unless modified or abrogated by the judicial council of the relevant circuit.

"(2) Any other rule prescribed by a court other than the Supreme Court under subsection (a) shall remain in effect unless modified or abrogated by the Judicial Conference.

"(d) Copies of rules prescribed under subsection (a) by a district court shall be furnished to the judicial council and copies of all rules prescribed by a court other than the Supreme Court under subsection (a) shall be furnished to the Director of the Administrative Office of the United States Courts and made available to the public.

"(e) If the prescribing court determines that there is an immediate need for a rule, such court may proceed under this section without public notice and opportunity for comment, but such court shall promptly thereafter afford such notice and opportunity for comment.

"(f) No rule may be prescribed by a district court other than under this section." (102 STAT.4651)

4. 28 USCS § 1254(1), Federal Rules of Civil Procedure by Foundation Press, 1998, p. 574

§ 1254. Courts of appeals; certiorari; certified questions
Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:
(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

5. 28 USCS § 1257, Federal Rules Of Civil Procedure by Foundation Press, 1998, p. 575.

§ 1257. State courts; certiorari
(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State drawn in to question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or treaties or statutes of, or any commission held or authority exercised under, the United States.

6. 28 USCS § 1331. Federal question, Federal Rules of Civil Procedure by Foundation Press, 1998, p. 580

§ 1331 Federal Question
The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. - - -

7. 28 USCS § 1651(a) & (b), Federal Rules of Civil Procedure by Foundation Press, 1998 p. 610.

§ 1651. Writs (a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction. As amended May 24, 1949, c. 139, § 90, 63 Stat. 102

8. 28 USCS § 1343(a) & (b), Federal Rules of Civil Procedure by Foundation Press, 1988 p. 584.

§ 1343. Civil rights and elective franchise

(a) The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;

(2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States.

(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.

(b) For purposes of this section -

(1) the District of Columbia shall be considered to be a

State; and

(2) any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia. As amended Sept. 3, 1954, c 1263, § 42, 68 Stat. 1241; Sept. 9, 1957, Pub. L. 85-315, Part III, § 121 71 Stat. 637; Dec. 29, 1979, Pub. L. 96-170, § 2, 93 Stat. 1284.

9. 28 USCS § 2201(a), Federal Rules of Civil Procedure by Foundation Press, 1998, p 630

§ 2201. Creation of remedy

(a)In a case of actual controversy within its jurisdiction, except with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986, a proceeding under section 505 or 1146 of title 11, or in any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of merchandise of a free trade area country (as defined in section 516A(f)(10) of the Tariff Act of 1930), as determined by the administering authority, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

10. 28 USCS § 2202, Federal rules of Civil Procedure by Foundation Press, 1998, p. 631.

§ 2202. Further relief.

Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.

11. 42 USCS § 1983, 1994 Replacement p. 1.

§ 1983. Civil action for deprivation of rights

Every person who, under color or any statute, ordinance, regulation, custom, or usage, of any State or

Territory or the District of Columbia , subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District Of Columbia (R.S. § 1979; Dec. 29, 1979, P.L. 96-170, § 1, 93 Stat. 1284.)

12. 42 USCS § 1985, 1994 Replacement p. 8,9

§ 1985. Conspiracy to interfere with civil rights

(1) Preventing officer from performing duties. If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district or place, where his duties as an officer are required to be preformed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(2) Obstructing justice; intimidating party, witness, or juror. If two or more persons in any State or Territory comspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or his being or having been such juror; or if

two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges. If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons with such State or Teritory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspiratiors. (R.S. § 1980)

13. Indiana Code 33-2-3-1,1997 Replacement pp. 113-114
Sec. 1. The Supreme Court of this state shall have exclusive jurisdiction to admit attorneys to practice law in all courts of the state and exclusive jurisdiction to

issue restraining orders and injunctions in all cases involving the unauthorized practice of the law under such rules and regulations as it may prescribe.

14. Rooker - Feldman Doctrine, Rutgers Law Review Vol. 42:859 at 860-861.

State Supreme Court decisions, Rooker v. Fidelity Trust Co., and District of Columbia Court of Appeals v. Feldman. In essence, the doctrine stands for the proposition that federal district courts do not have jurisdiction to review the judgments of state courts. "It is a principle as old as our dual state and federal judicial systems," said a Tenth Circuit court, "that a federal district court is without jurisdiction to interfere with a judgment in a state court action in which the state court had jurisdiction of the subject matter and of the parties thereto."

The Rooker - Feldman doctrine is based upon "principles of statutory construction and negative inference."The statutes involved are those granting jurisdiction to the Supreme Court and to the federal district courts. 28 U.S.C. section 1257 grants the Supreme Court the right to review "[f]inal judgments . . rendered by the highest court of a State in which a decision could be had." Because Congress has not granted any other federal court the right to review state court judgments, it may be inferred that the Supreme Court's jurisdiction under section 1257 is exclusive. Congress has granted the federal district courts original jurisdiction under several other statutes, principally 28 U.S.C. sections 1331 and 1332. Because they have been granted only original jurisdiction, it may be further inferred that district courts may not engage in appellate review of state decisions. As one writer observed, "[t]his limitation is an obvious statutory corollary of the Statutory grant to the Supreme Court of exclusive power to review state court judgments. The term 'original' as used in the statutes clearly negates, as a matter of statutory construction, any implied 'appellate' jurisdiction."

As the Supreme Court stated during its 1988 term,

"[t]he Rooker - Feldman doctrine interprets 28 U.S.C. section 1257 as ordinarily barring direct review in the lower federal courts of a decision reached by the highest state court, for such authority is vested solely in this Court." If allowed, "[t]he effect of such a jurisdiction would be to displace almost the whole of state litigation into the federal courts by making the final judgment in the state court the cause of action that kicks off a suit to undo that judgment in federal court." According to most courts, this is the most significant rational behind the Rooker - Feldmen principle: "In this nation we have two 'essentially separate legal systems.' . .[T]his dual system could not function if state and federal courts were free to fight each other for control of a particular case."

The thesis of this Note is that the Rooker - Feldman doctrine is unnecessary and potentially harmful. The rationale that underlies the doctrine is adequately promoted by other principles that guard against federal review of state court judgments. - - - -